

S-E-C-R-E-T

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84-3751

MEMORANDUM FOR: Director of Central Intelligence

VIA: Deputy Director of Central Intelligence
Executive Director
Deputy Director for Administration
Director, Office of Legislative Liaison

LEGISLATIVE LIAISON
84-4828

FROM: Robert W. Magee
Director of Personnel

Fed Pers

SUBJECT: Review of the Administration of CIARDS



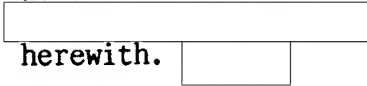
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1. Action Requested: That you transmit the annual report on the administration of CIARDS to the House Permanent Select Committee on Intelligence.



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2. Background: Since 1978, the Agency has, pursuant to the requirement by the House Permanent Select Committee on Intelligence, submitted an annual report on the administration of CIARDS. The report is due in December of each year. The previous reports were prepared by [redacted] Consultant, who has prepared the report submitted herewith.



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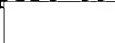
3. Staff Position: In this letter of transmittal to you, [redacted] concludes that "the Agency has administered the Central Intelligence Agency Retirement and Disability System during Fiscal Year 1984 in a manner wholly consistent with the intent of Congress."



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4. Recommendation: That you sign the attached letter transmitting the annual report to the Chairman of the House Committee on Intelligence.



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Robert W. Magee

Attachments:

- A. Transmittal letter to Chairman, House Permanent Select Committee, House of Representatives
- B. Annual Review of Designation of Participants Under Section 203 of the CIA Retirement Act

This memorandum may be downgraded to UNCLASSIFIED when separated from attachment

S-E-C-R-E-T

SUBJECT: Review of the Administration of CIARDS

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CONCUR:

Director, Office of Legislative Liaison

ILLEGIB

26 Dec 84
Date

Deputy Director for Administration

25X1

26 DEC 1984
Date

Executive Director

25X1

27 DEC 1984
Date

/S/ John N. McMahon

Deputy Director of Central Intelligence

27 DEC 1984
Date

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OP/RD/RBS (7 December 1984)

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Central Intelligence Agency



2 JAN 1985

Sent out

27 DEC 1984

Washington, D.C. 20505

Registry

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LEGISLATIVE LIAISON

84-4838/1

The Honorable Edward P. Boland
Chairman
Permanent Select Committee on Intelligence
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Forwarded herewith is the annual report on the administration of the CIA Retirement and Disability System for FY 1984. The present report, as were the previous reports on the administration of CIARDS, was prepared by [redacted]. We are fortunate to have an individual of his eminence in the retirement field to conduct this review.

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I am pleased that [redacted] has determined that the Agency is continuing to administer the CIARD System in a manner wholly consistent with the intent of Congress.

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Sincerely,

/s/ William J. Casey

William J. Casey
Director of Central Intelligence

Enclosure:

Annual Review of Designation of Participants
Under Section 203 of the CIA Retirement Act,
by [redacted] December 1984

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graded to UNCLASSIFIED when
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**ANALYSIS OF DESIGNATION OF PARTICIPANTS
UNDER SECTION 203 OF THE CIA RETIREMENT ACT**



December 1984

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S-E-C-R-E-T

7 December 1984

The Honorable William J. Casey
Director of Central Intelligence
Washington, D.C. 20505

Dear Mr. Casey:

This year marks the twentieth anniversary of enactment of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees. That Act authorized the Director of Central Intelligence to establish and maintain a Central Intelligence Agency Retirement and Disability System for a limited number of Agency employees.

The law did not set any limit on the number of Agency employees who might be designated for participation in the special retirement system. There was, however, a clear understanding between the Agency and the Congressional Committees that only about thirty percent of all Agency employees would be participants in CIARDS.

In 1976 the House Armed Services Committee requested that each year the Agency conduct a study and submit a report on its administration of the special retirement system. The primary purpose of the annual study is to review the manner in which the Agency has exercised its discretion to designate employees for participation in CIARDS and to administer the system for a limited number of employees. This is the ninth in the series of annual reports, which are now submitted to the House Permanent Select Committee on Intelligence.

During the fiscal year 1984 the Central Intelligence Agency Retirement Board and the Director of Personnel, acting under your delegated authority, have continued to apply very strict criteria in the exercise of discretion to determine what service is qualifying and to designate employees for participation in CIARDS. Extensive review discloses no deviations or exceptions from the law, the regulations, or established Agency policy.

Participation in CIARDS, which peaked at almost thirty-five percent of Agency employees in 1974, is now down to nineteen percent of employees. The average age of employees retiring under CIARDS, while up somewhat in recent years, is still a full four years younger than that of Agency employees retiring under the Civil Service Retirement System.

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The Honorable William J. Casey
7 December 1984
Page Two

A total of [] Agency employees have retired under CIARDS since the 1964 enactment authorized establishment of this special retirement system. Nine out of ten of these retired employees are still alive and receiving annuity. In addition, 465 survivors of deceased Agency employees and retirees are also receiving annuity.

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The formulas for computing annuities for employees under CIARDS is less generous than formula applicable to several other groups of special employees, such as Members of Congress and Congressional employees, law enforcement officers including FBI agents, and air traffic controllers. Nevertheless, CIARDS has been a valuable tool of personnel management for the past twenty years, and has helped to keep the intelligence service young and vigorous by facilitating the retirement of employees in certain essential areas before their effectiveness was seriously diminished or destroyed.

In my opinion, the Agency has administered the Central Intelligence Agency Retirement and Disability System during Fiscal Year 1984 in a manner wholly consistent with the intent of Congress.

Sincerely yours,



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PART I

INTRODUCTION

WHY THIS STUDY WAS MADE

Once each year the Central Intelligence Agency submits to appropriate Committees of Congress a report on its administration of the Central Intelligence Agency Retirement Act for Certain Employees. The annual report, of which this is the ninth, is primarily a review of the manner in which the Agency exercises its discretion to designate employees for participation in the Central Intelligence Agency Retirement and Disability System (CIARDS). ☐

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The Central Intelligence Agency Retirement Act for Certain Employees (50 U.S.C 403) was originally enacted in 1964. It authorized the Director of CIA to establish a retirement system for some, but not all, Agency employees, and to designate employees for participation in the system. The law provided very broad guidelines for eligibility and these guidelines have been made more specific by Agency regulations. ☐

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Employees must perform at least sixty months of qualifying service to be eligible for participation. All overseas service is qualifying, regardless of the location of employment or the type of service performed. Overseas means any location outside the fifty states, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam. ☐

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Domestic service may be qualifying, but only if it meets a narrow set of rules which are strictly interpreted and applied. To qualify for participation in CIARDS, domestic service must:

1. Involve a substantial risk to the life or health of the employee;
or
2. Require the continued practice of tradecraft under conditions of most stringent security; or

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3. Be so specialized or sensitive that security regulations will probably prevent the employee from obtaining employment after retirement in his or her field of qualification. ☐

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The legislative history of the CIA Retirement Act clearly expresses an understanding between the Agency and the Congress that the new system would not apply to all employees of the Agency. The Act did not set any limits, but it was understood that only about one-fourth to one-third of Agency employees would participate. ☐

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During 1976 hearings on a then pending Bill, H.R. 13615, some members of the House Armed Services Committee expressed concern that the Agency might have relaxed its policies for designating employees for participation in CIARDS, and that the retirement system was being made available to a larger percentage of employees than the Congress had intended. This concern resulted in the following directive contained in the Committee Report on H.R. 13615:

"When the CIA Retirement Act was originally considered by Congress in 1964 particular attention was focused on section 203 of the Act, which authorizes the Director to designate 'such Agency officers and employees whose duties are determined by the Director to be (i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment, hereafter referred to as participants, who shall be entitled to the benefits of the system'. Essentially that provision was the basis for creating a separate retirement system and it was the intent of Congress that this system should apply to the relatively small percentage of Agency employees who were actually subjected to these very special hazards.

"During the course of consideration of this legislation there have been indications that in recent years there may have been deviations on the part of the Agency in administering this separate system from a strict application of the provisions of section 203 in designating officers and employees as participants in the CIA Retirement system in line with the original intent of Congress when that system was created.

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"Accordingly, in the exercise of its oversight function the Committee has directed that the CIA conduct a careful analysis of the application of the qualifying provisions of section 203 of the CIA Retirement Act in designating participants with reference to the special circumstances justifying their inclusion, and that the results of such analysis be reported to the Committee by the Director of Central Intelligence not later than October 1, 1976, and on an annual basis thereafter." []

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Reports of the annual studies after the first two have been submitted to the House Permanent Select Committee on Intelligence, which now exercises an oversight function with respect to the Central Intelligence Agency. That Committee has made clear its desire that the Agency continue to submit reports of annual studies. []

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SCOPE OF THIS REPORT

This study and report cover the fiscal year that began 1 October 1983 and ended 30 September 1984. Its primary objective is a review of actions involved in designating employees for participation in CIARDS and an analysis of whether the discretion exercised by the Agency is in full compliance with the law and the regulations and is consistent with established Agency policies. []

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Statistical tables of the end results of Agency actions during the fiscal year show more clearly than words just how the Congressional intent that CIARDS be maintained as a retirement system for a limited number of employees is being carried out by the Agency. []

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The report also covers briefly some of the events of the year that will affect future Agency administration of CIARDS. []

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S-E-C-R-E-T**HOW THE STUDY WAS CONDUCTED**

The writer was given unrestricted access to all files and records containing information related to Agency administration of CIARDS, including individual case records and verbatim transcripts of the meetings of the CIA Retirement Board. Information from these sources, plus contacts with Agency personnel involved in CIARDS administration, provided a basis for evaluating Agency discretion in designating employees for participation in this special retirement system. ☐

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HOW THE REPORT IS ORGANIZED

This report is divided into the following five parts:

- | | |
|----------|--|
| PART I | INTRODUCTION |
| PART II | QUALIFYING SERVICE |
| PART III | WHAT HAPPENED DURING THE YEAR |
| PART IV | STATISTICAL DATA |
| PART V | FINDINGS AND CONCLUSION <input data-bbox="1058 1234 1177 1304" type="checkbox"/> |

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PART II

QUALIFYING SERVICE

The Central Intelligence Agency Retirement Act of 1964 for Certain Employees contained very broad criteria for determining what service is qualifying for participation in this special retirement system. Section 203 reads in part as follows:

"The Director may designate from time to time such Agency officers and employees whose duties are determined by the Director to be (i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment, hereafter referred to as participants, who shall be entitled to the benefits of the system." [redacted]

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These criteria have been refined and made more specific by Agency Regulations [redacted] which now reads as follows:

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"Qualifying service, for purpose of designation and continued participation, means performance of duty as an Agency employee:

- (a) When assigned either PCS or TDY to any place outside the 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam;
- (b) Which, in support of Agency activities abroad, requires a substantial risk to the life or health of the employee;
- (c) Which requires the continued practice of tradecraft under conditions of most stringent security in support of Agency activities; or
- (d) Which, when retirement is imminent, is adjudged to have been so sensitive or so specialized that security requirements forbid disclosure of this duty and that, as a result, it is unlikely the employee will be able to obtain employment for which otherwise qualified."

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All service overseas, regardless of location or type, is qualifying for participation in CIARDS. An employee needs 60 months of qualifying service to be designated for participation, but all overseas service is counted regardless of the total.

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Domestic service, on the other hand, is qualifying only if it meets rigid requirements of security or personal hazard. It is counted only in the amount needed to meet the 60 month requirement. For example, if an employee has no overseas service, he or she may be credited with up to 60 months of qualifying domestic service, but no more. An employee who has 60 or more months of overseas service is not credited with any domestic service even though it would meet the qualifying requirements. An employee with both overseas service and qualifying domestic service is credited with all the overseas service but only enough domestic service to bring the total up to 60 months.

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Nine out of ten of the employees who have retired under the non-disability provisions of CIARDS since the system began have had 60 or more months of service overseas.

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Another or 9 percent, have had some service overseas and have used enough domestic qualifying service to bring the total to the required 60 months. About half of these retirees had at least 3 years of service overseas.

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Only non-disability retirees have qualified using domestic service only. This is less than 1 percent of the retirees since 1964.

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Each year since 1979 the Agency has complied with a request by the House Permanent Select Committee on Intelligence to supply the Committee with "annual summaries of CIARDS retirements that are not based solely on overseas service". Previous summaries have been included in the annual reports, and the summary for the fiscal year ending 30 September 1984 follows. [] 25X1

[] employees retired under the non-disability provisions of CIARDS during the fiscal year 1984. [] 25X1

[] or 89 percent of the total, had sixty or more months of service overseas and thus used no domestic qualifying service. [] 25X1

Only [] retirees, or 11 percent of the total, used domestic service to qualify. [] of them had service overseas but needed some domestic service to complete the 60 months required for CIARDS participation. The [] who needed less than 60 months of qualifying domestic service had an average of 37 months of overseas service. [] 25X1

[] retirees had no service overseas and qualified on the basis of 60 months of domestic service. Thus only 2.5 percent of the [] non-disability retirements in fiscal year 1984 were based exclusively on qualifying domestic service. [] 25X1

The experience for F.Y. 1984 is quite similar to that for F.Y. 1983, when [] retirees used some domestic service to qualify, with [] of them having an average of 40 months of service overseas and [] using only domestic service. [] 25X1

One retiree in F.Y. 1984 had 60 months of domestic service that qualified under the provisions of [] because at the time of retirement security reasons prevented disclosure of the duties performed. [] 25X1

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[] retirees each had 60 months of domestic service that met the tradecraft provisions of [] and [] retiree had three months of hazardous service [] and 57 months under the trade-craft provisions. []

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Of the [] retirees who used both overseas and domestic service [] had some domestic service qualifying because of hazard and some because of tradecraft. The remaining [] qualified entirely under the tradecraft provisions. []

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Since CIARDS began [] non-disability retirements have been by employees with more than 20 years of service overseas; [] have had more than 25 years overseas. []

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During fiscal year 1984 [] Agency employees applied to the CIA Retirement Board for approval of domestic service as qualifying for participations in CIARDS. The Board approved [] applications and disapproved [] Only one of the disapprovals was appealed, and in that case the Board's action of disapproval was sustained. []

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Since CIARDS began, 75 percent of applications for domestic service have been approved, and in 90 percent of appeals the Board's action has been sustained. In twenty years only five disapprovals of domestic service by the CIA Retirement Board have been reversed. []

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For additional information see TABLES A, B, C, D, E, and F that follow. []

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PART THREE

WHAT HAPPENED DURING THE YEAR

The CIA Retirement Board continued to function effectively in its role of assisting the Director of Personnel to designate employees for participation in CIARDS, to determine what service is qualifying, and to approve retirements. []

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There were no changes in Agency policy that will affect the exercise of discretion in these determinations, and the changes in the law and the regulations that occurred during the year will have no bearing on these decisions. []

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The percentage of Agency employees who are participants in CIARDS is at its lowest point since the system was originally put into effect. Only 19 percent of employees are designated for CIARDS participation as of 30 September 1984, compared with a high of 34.6 percent as of 31 December 1974. The number of CIARDS participants now is [] down from [] as of 31 December 1971, and up from [] a year ago. []

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Changes in law during the year related largely to annuity cost-of-living adjustments, with one change affecting interest on deposits for military service. []

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One Executive Order was issued to conform CIARDS to a change already enacted for the Civil Service Retirement System. This relatively minor change affected only interest on deposits for military service. []

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The Agency reissued its regulations relating to CIARDS to reflect all of the changes in law that have occurred since 8 September 1982, plus changes of a technical and clarifying nature. []

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, Although no new former spouses were added to the two currently receiving benefits under the CIA Spouses Retirement Equity Act of 1982,

more have been found potentially eligible for benefits in the future.

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Additional information on these and other happenings will be found in the pages that follow

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CIA RETIREMENT BOARD

One of the first actions taken by the Agency after the CIA Retirement Act was passed in 1964 was to establish the CIA Retirement Board. ☐

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This Board consists of a Chairman and four other members, each of whom is a senior official of the Agency and a representative of a Directorate. Members of the Board are appointed by the Director of Personnel. ☐

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The Board assists the Director of Personnel in exercising authority delegated to him by the DCI in connection with administration of CIARDS. Among the important responsibilities are to (a) determine what services of employees are qualifying for participation in CIARDS, (b) designate employees for participation, and (c) approve retirements under CIARDS. These functions must be carried out with due regard to the law, the regulations, and Agency policy as reflected by precedent decisions. ☐

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Staff services to the Board are supplied by (a) a Legal Advisor, (b) a Technical Advisor, (c) an Executive Secretary who prepares an agenda for each meeting, presents items for Board discussions, and prepares minutes after each meeting, and (d) a Recording Secretary who produces a verbatim transcript of the proceedings of each meeting. Each of these staff members attends meetings but does not have voting privileges. ☐

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During the fiscal year that ended 30 September 1983, turnover changed the complexion of the CIA Retirement Board. The Chairman, three other Members, and the Executive Secretary were replaced. The one remaining Member had been appointed in April of 1981. ☐

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Two of the Members who were appointed in F.Y. 1983 were replaced in F.Y. 1984. The Board now consists of a Chairman appointed in August of 1983, and Members appointed in April of 1981, August of 1983, February of 1984, and April of 1984. The Director of Personnel and the Chairman and two other Members of the Board are participants in CIARDS. The other two Board Members are in the Civil Service Retirement System. ☐

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During Fiscal Year 1984 the Board held ten regular meetings, varying in length from twenty minutes to two hours and forty-five minutes. Total time for the ten Board meetings was 12 hours and ten minutes. The Board made recommendations that resulted in the following:

☐ designations for CIARDS participation

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☐ domestic service cases approved

☐ domestic service cases disallowed

☐ CIARDS retirements. ☐

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Most of the Board's meeting time was spent considering employee applications for approval of domestic service as qualifying for CIARDS. One unusually difficult case will demonstrate how seriously the Board considers its responsibility to be fair to each individual employee, while at the same time carefully observing and applying the law, the regulations, and Agency policy as reflected in decisions over the years.

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In this case the employee had performed some service overseas and claimed enough qualifying domestic service to complete the 60 months required for participation in CIARDS. His application was submitted to the CIA Retirement Board through channels, and the Board invited him to appear in person to support his written description of the domestic service he claimed as qualifying. After about 35 minutes of discussion, the Board asked the applicant to submit additional evidence.

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At its next meeting after discussing and considering the evidence for about 40 minutes, the Board concluded that the employee had not performed enough qualifying service to be designated for CIARDS participation.

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When he was informed of this conclusion, the employee asked for reconsideration and submitted additional evidence. The Board considered this additional evidence for about 50 minutes at its next meeting, and then decided to invite the employee in for a second appearance to answer a series of questions to which the answers were still not clear to the Board.

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The Board spent another 1 hour and 50 minutes on this case at its next meeting, asking the applicant for details that would help to clarify the precise nature of his employment in various assignments. The questions and discussion were all directed toward determining whether the service meets the criteria to be approved as qualifying for CIARDS.

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The Board again found that the employee did not have the 60 months of qualifying service needed for participation in CIARDS, and this finding was accepted by the Director of Personnel as his final decision.

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The employee appealed this decision, and the finding of the Board was sustained.

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While this case was unusually difficult and time-consuming, taking up nearly 4 hours of the time of the Board, it accomplished several results:

1. The employee had his day in court and was given every opportunity to support his claim.
2. Both the employee and the Board now know how many months of the employee's service are qualifying. He may very well perform additional qualifying service in the future and attain CIARDS participation.
3. The record established by consideration of various assignments in this case will facilitate consideration of future applications by other employees.
4. In a sense, the detailed discussions were informative and educational to individual members of the Board.

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One item discussed and decided by the Board during the year resulted in a change in the regulations and merits some discussion. Until 27 August 1984 paragraph (c) of the regulation defining qualifying service read as follows:

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Before it was adopted,

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the Board discussed the proposed change at length and finally approved it without objection from any Member.

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The paragraph above is this writer's interpretation of the basis on which the Board decided to change the regulation. It is a distillation of discussions over many pages of the verbatim transcript of two meetings of the Board. In a wide range of views expressed during the discussion, not every thought is consistent with the final decision.

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If future cases follow the precedents of those decided before this revision of the regulations, which the Board stated to be its intention, no change in policy will have occurred. If, on the other hand, future decisions are different because of the change in regulations, then the Agency will have made a change in the policies under which it determines what service is qualifying for CIARDS without intending to do so.

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A reading of the verbatim transcripts of the ten regular meetings of the Retirement Board during F.Y. 1984, plus a review of selected individual cases, confirms that the Board continues to adhere strictly to the law, the regulations, and established Agency policy. No exceptions or deviations were found.

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CHANGES IN THE CIA RETIREMENT ACT

The Central Intelligence Agency Retirement Act for Certain Employees may be amended in either of two ways:

1. Directly by enactment of an Act of Congress, or
2. Indirectly by enactment of an amendment to the Civil Service Retirement Act, followed by issuance of an Executive Order to conform the CIA Retirement Act to the revised provisions. ☐

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The final step in the process of amendment is to revise Agency Regulations ☐ to reflect the new provisions. ☐

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During the fiscal year that ended 30 September 1984, one amendment to CIARDS was effected by the indirect process. Public Law 98-94, enacted 24 September 1983 amended the Civil Service Retirement Act to extend by one year the interest-free period for deposits to cover post-1956 military service prescribed by P.L. 97-253 dated 8 September 1982. ☐

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Executive Order 12485 issued July 13, 1984 conformed CIARDS to this change in the Civil Service Retirement Act enacted by P.L. 98-94. ☐

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Agency Regulations ☐ were revised and reissued 27 August 1984, and the revision includes the change brought about by enactment of P.L. 98-94 and issuance of Executive Order 12485. ☐

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Three other changes were made by the direct process.

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Public Law 98-270 enacted 18 April 1984 cancelled the cost-of-living annuity increase scheduled for 1 May 1984, and changed the method of determining the amount of future increases. These two changes directly amended provisions of law that had been made specifically applicable to CIARDS, so no Executive Order is needed to conform CIARDS to the new provisions.

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The percentage by which annuities will be increased in the future will be determined by comparing the Consumer Price Index for the third quarter of the calendar year to the CPI for the third quarter of the previous year.

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Public Law 98-396 enacted 22 August 1984 also directly amended provisions of law specifically applicable to CIARDS. This change repealed the provision of P.L. 97-253 that specified a Fiscal Year 1985 COLA for under-age 62 non-disability retirees at a rate different from other retirees. As a result of this change, the COLA effective 1 December 1984 will be the same (3.5 percent) for all retirees regardless of age.

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EXECUTIVE ORDERS

Executive Order 12485 signed 13 July 1984, was the only Executive Order issued during the past year to conform CIARDS to legislation enacted to amend the Civil Service Retirement Act. The amendment itself was of minor importance except to a relatively few employees personally affected.

25X1

For many years military service performed after 1956 could not be credited in the computation of annuity once the individual involved reached age 62. Public Law 97-253 the "Omnibus Budget Reconciliation Act of 1982", enacted 8 September 1982 and P.L. 97-346 enacted 15 October 1982, amended this so-called "Catch 62" provision. New employees are now required to make a deposit to the Retirement Fund equal to 7 percent of the military pay in order to receive any credit for post-1956 military service. Present employees may either make the deposit and continue to include the military service after age 62, or they may not make the deposit and have credit for the service deleted from the annuity computation at age 62. Individuals retired on or before 8 September 1982 may not make a deposit; their annuity after age 62 will include post-1956 military service and the annuity will be reduced by the amount of Social Security benefit attributable to the post-1956 military service.

25X1

P.L. 97-253 specified that interest would be required on any deposit for military service made more than two years after the later of 1 October 1982, or the date of appointment of a new employee. Interest would begin after the specified two-year period.

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Public Law 98-94, signed 24 September 1983 changed the date "October 1, 1982" in the above paragraph to "October 1, 1983". In other words, the period during which a deposit to cover post-1956 military service could be made without payment of interest was extended for one year.

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Executive Order 12485 amended Section 252 (h) (2) (A) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, to conform to the change in the Civil Service Retirement Act enacted by P.L. 98-94.

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REGULATIONS

On 27 August 1984 the Agency reissued its regulations pertaining to CIARDS. In addition to changes of a clarifying and technical nature, the reissue brought the Agency up to date to recognize changes made by the following:

P.L. 97-253 enacted 8 September 1982

P.L. 97-269 enacted 27 September 1982

P.L. 97-346 enacted 15 October 1982

P.L. 97-377 enacted 21 December 1982

P.L. 98-94 enacted 24 September 1983

P.L. 98-270 enacted 18 April 1984

P.L. 98-369 enacted 18 July 1984

P.L. 98-396 enacted 22 August 1984

E.O. 12443 issued 27 September 1983

E.O. 12485 issued 13 July 1984.

Copies of the revised regulations were transmitted to the Chairmen of the House Permanent Select Committee on Intelligence and the Senate Committee on Intelligence by letters dated 23 November 1984.

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CENTRAL INTELLIGENCE AGENCY SPOUSES RETIREMENTEQUITY ACT OF 1982

The CIA Spouses Retirement Equity Act of 1982, Title VI of Public Law 97-269 enacted 27 September 1982, provides a measure of financial protection to certain former spouses as well as current spouses. To qualify as a former spouse, a wife or husband must have been married to an Agency employee during at least 10 years of creditable service, and must have been outside the United States with the employee for at least five of those years. This law directly amended CIARDS but was also made applicable to Agency employees who are under Civil Service Retirement. ☐ 25X1

P.L. 97-269 included this directive:

"(o) The Director shall, on an annual basis -

- (1) inform each participant of his or her right of election under subsections (f) (2) and (n); and
- (2) to the maximum extent practicable, inform spouses or former spouses of participants or former participants of their rights under this section and sections 222, 223, and 234 (c), (d), and (e)." ☐ 25X1

The required annual notice to retirees went out in October, 1984.

The notice to employees and spouses was issued on 7 December 1984. ☐ 25X1

During the fiscal year that ended 30 September 1984, 67 individuals inquired about their eligibility for benefits under P.L. 97-269. None of them were eligible for immediate annuities, although 6 will be eligible for a share of monthly annuity when the employee retires, and another 20 will be eligible for a monthly benefit if they survive the retired employee to whom they were formerly married. ☐ 25X1

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This brings to 134 the number of direct inquiries processed since enactment of P.L. 97-269. Two former spouses are currently receiving monthly benefits. Thirteen former spouses will qualify for a share of monthly benefits when the employee retires, and 27 are eligible for a monthly benefit if they survive the retired employee.

25X1

On 8 November 1984, which is after the end of the fiscal year covered by this report, the President signed Public Law 98-615, the "Civil Service Retirement Spouse Equity Act of 1984". This law, which is more liberal than the 1982 provisions enacted for CIARDS, will apply to all Agency employees who are under the Civil Service Retirement Act. It does not amend CIARDS, and the authority of the President to conform CIARDS to Civil Service Retirement amendments is specifically made inapplicable to its provisions.

25X1

A bill H.R. 5805 in the 98th Congress to liberalize the 1982 provisions for CIARDS was not enacted. It will probably be reintroduced in the 99th Congress.

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CHANGES IN ANNUITY COLA

Immediately before enactment of the Omnibus Budget Reconciliation Act of 1982, annuities under both the Civil Service Retirement System and CIARDS were adjusted once a year to reflect inflation. The amount of each COLA was equal to the percentage change in the Consumer Price Index from December of one year to December of the next. The annuity increase was effective March 1 and first paid in the April checks. The age of the annuitant was not a factor in determining the amount of the increase. 25X1

Public Law 97-253 enacted 8 September 1982 (the Omnibus Budget Reconciliation Act of 1982) made a number of changes, including the following:

1. For fiscal years 1983, 1984, and 1985 annuitants under age 62 (except survivors and employees retired for disability) were to receive one half of the assumed increase in the price index, plus any amount by which the actual increase in CPI might exceed the assumed increase. Assumed increases in CPI were 6.6 percent for fiscal year 1983, 7.2 percent for 1984, and 6.6 percent for 1985. These so-called Diet COLAs would end with F.Y. 1985, and thereafter all annuitants would get the same percentage increase regardless of age. 25X1

2. The effective date of COLAs was delayed to April 1 for fiscal year 1983, May 1 for fiscal year 1984, and June 1 for fiscal year 1985. 25X1

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3. The pay of any civilian employee also receiving military retired or retainer pay would be reduced by the amount of any cost-of-living increase in the retired or retainer pay.

25X1

The changes in paragraphs numbered 1 and 2 above were made specifically applicable to CIARDS as well as CSR. Paragraph 3 applied to all civilian employees.

25X1

Public Law 98-270 enacted 18 April 1984, the Omnibus Budget Reconciliation Act of 1983, changed the following for both CSR and CIARDS.

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1. Cancelled annuity increases for fiscal year 1984, which otherwise would have become effective May 1 1984.

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2. Permanently changed the effective date of future increases to December 1 for 1984 and subsequent years.

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3. Changed the method of determining the amount of each COLA to a comparison of the average CPI for the third calendar quarter of one year with the average CPI for the third calendar quarter of the next year. The COLA would equal the percentage increase in CPI resulting from this comparison.

25X1

Public Law 98-369 enacted 18 July 1984 prospectively repealed the provision of P.L. 97-253 that required a reduction in the pay of an employee equal to any cost-of-living increase he or she received in military retired or retainer pay.

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The provision of P.L. 97-253 that prescribed diet COLAs for non-disability retirees under age 62 was allowed to expire by its own terms after fiscal year 1985. The House of Representative passed a bill, H.R. 4170, containing a provision to limit under-age 62 COLAs to one half the full COLA for fiscal years 1986 and 1987. The Senate-passed version of H.R. 4170 contained no such provision. In a conference on the bill, the House receded to the Senate, and the bill finally enacted as P.L. 98-369 on 18 July 1984 is silent about under-age 62 cost-of-living adjustments. There is no language in any law that repeals under-age 62 COLAs. The provision of the 1982 law which established them for fiscal years 1983, 1984 and 1985 was never extended beyond fiscal year 1985. ☐

25X1

When it appeared that half the assumed increase in the price index for fiscal year 1985 (3.6%) might exceed the actual increase (which turned out to be 3.5%) Congress included a provision in Public Law 98-396 enacted 22 August 1984 (a supplemental appropriation law) to limit the December 1, 1984 COLA for non-disability retirees under age 62 to the actual percentage increase in CPI. ☐

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PART IV
STATISTICAL DATA

In this part of the report statistical tables are used to show the end results of the Agency's administration of CIARDS. Most of the tables show what happened during the fiscal year with numbers for other years used for purposes of comparison and to show total experience since the program began. Most of the tables are self-explanatory and require little or no narrative.

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PARTICIPATION IN CIARDS

The legislative history of the CIA Retirement Act reflects a clear understanding between the Agency and the Congressional Committees that CIARDS participation would be limited to approximately 30 percent of Agency employees. This understanding was never put into a directive or a provision of law.

25X1

From 1964 to 1976 employees could be approved for participation in CIARDS with as little as eighteen months of qualifying service. They were later removed from CIARDS unless they continued to acquire additional months of qualifying service. By 1971 CIARDS participation exceeded 30 percent and peaked at 34.6 percent in 1974.

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The Civil Service Retirement System applies to new employees of the Agency and their retirement deductions go into the Civil Service Retirement Fund. When an employee is designated for CIARDS participation, his or her retirement account is transferred from the Civil Service Retirement Fund to the CIARDS Fund. During the period when employees were admitted to CIARDS with eighteen months of qualifying service and later removed if they failed to meet additional service requirements, there was a constant flow of transfers of accounts from CSR to CIARDS, back to CSR, and in many cases once again back to CIARDS.

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Permanent participation in CIARDS requires 60 months of qualifying service. In 1976 the Agency changed its policy to require 60 months for designation and back-and-forth transfers between funds were eliminated except for an occasional employee who elects out of CIARDS at the point of fifteen years of service.

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Participation in CIARDS continues to drop, and reached a new low of 19 percent at the end of fiscal year 1984. This is a drop of 1.2 percent from a year ago.

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Future participation in CIARDS will probably not vary much from the present, unless there are significant changes in Agency strength or in the number or duration of overseas assignments. See TABLE 1

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DESIGNATIONS AND REMOVALS

employees were designated for CIARDS participation during the fiscal year. This is down from in F.Y. 1983.

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Only one employee was removed, by voluntary election at the completion of 15 years of service. See TABLE 2

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CIARDS RETIREMENT ELIGIBILITY

A year ago 41 percent of CIARDS participants were eligible to retire - 24 percent voluntarily and 17 percent if involuntarily separated. Now 44 percent are eligible - still 24 percent voluntarily but now 20 percent involuntary. See TABLE 3

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RETIREMENTS IN FISCAL YEAR 1984

For the first year since 1974, retirements of Agency employees under the Civil Service Retirement System exceeded those under CIARDS.

Eighty-six percent of the CIARDS retirees were from the Directorates of Operations and Administration. Only 60 percent of CSR retirements were from Operations and Administration. See TABLE 4

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The original CIA Retirement Act was justified in part on the need to retire certain employees earlier than at the ages normally experienced under Civil Service Retirement. CIARDS continues to serve this function, with CIARDS employees retiring at an average age of 54.1, four years younger than the CSR average age of 58.1.

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Twenty-six percent of the CIARDS retirements were at age 50, 32 percent were at ages 51 through 55, and 39 percent were at ages 56 through 60. Two CIARDS retirements were at age 62. See TABLE 5

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employees were retired under the mandatory age provisions of CIARDS, with years of service ranging from 20 to 39.

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or 81 percent of the total, retired voluntarily; retired because of disability.

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Of the [] CIARDS retirees, [] or 85 percent had completed 25 or more years of service, and [] or 47 percent had 30 years or more. The average years of service for all 1984 CIARDS retirees was 29 years. See TABLE 6. []

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CIARDS permits voluntary retirement at age 50 with 20 years of service. The [] employees who retired at age 50 during 1984 averaged 27.7 years of service. Only 3 retirees had the minimum of 20 years. See TABLE 7. []

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RETIREMENTS FROM 1965 to 30 SEPTEMBER 1984

A total of [] employees have retired under CIARDS since the program began. Sixty eight percent of them, or [] have retired voluntarily; 14 percent, or [] retired because of involuntary separations; 10 percent, or [] were for disability; 7 percent, or [] were mandatory for age. [] employees have received deferred annuities based on separations that occurred before the employee qualified for immediate annuity. [] CIARDS participants have died in service. []

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Of the [] who retired, [] were still on the annuity roll as of 30 September 1984. This indicates an amazingly low death rate for CIARDS retirees. A total of [] survivors of CIARDS employees and retirees were also receiving annuities at the end of F.Y. 1984. See TABLE 8 []

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During the same period 1965 through 1984, [] Agency employees retired under the Civil Service Retirement System. This is only [] more than total retirements under CIARDS. Forty two percent of CSR retirements were optional, 28 percent were discontinued service; 19 percent were for disability; and 11 percent were mandatory for age. The only two age retirements in F.Y. 1984 were firefighters; age retirement was abolished for CSR in 1978 except for a few hazardous occupations. See TABLE 9 []

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While only 19 percent of Agency employees are CIARDS participants, 47 percent of retirements in F.Y. 1984 were under CIARDS. This is the first year since 1974 that CSR retirements have exceeded those under CIARDS. See TABLE 10 []

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One of the strongest justifications for enactment of the CIA Retirement Act in 1964 and for its continued operation is the need to keep the service young and vigorous. This objective is being served very well by CIARDS; in F.Y. 1984 employees retiring under CIARDS were, on the average, four full years younger than Agency employees retiring under Civil Service Retirement. See TABLE 11 []

25X1

Twenty-eight percent of CIARDS retirees in F.Y. 1984 were age 50 or under, and 58 percent were in the age category of 51 to 59 years. Only 14 percent were retired because of the mandatory age 60 provision. In contrast, 45 percent of CSR retirees were age 60 or over. See TABLE 12 []

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Sixty percent of Agency employees retiring in F.Y. 1984 were at GS-13 and above, the same as F.Y. 1983. The percentage retiring at GS-12 and above dropped sharply from 71 percent in F.Y. 1983 to 66 percent in F.Y. 1984. For CIARDS retirements, the percentage at GS-13 and above was up for F.Y. 1984; the percentage at GS-13 and up was down. See TABLES 13 and 14

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AGE COMPARISONS

Tables 15, 16, 17 and 18 show in tabular and graphic form some comparisons of age and grade for active employees of the Agency, including data for past years and projections for the future.

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PART V
FINDINGS AND CONCLUSION

FINDINGS

1. Only nineteen percent of Agency employees were participants in CIARDS as of 30 September 1984. This is the lowest participation since the system was originally established, and is far below the thirty percent initially estimated by the Agency and the Congressional Committees. 25X1
2. Although only one Agency employee in five is a participant in CIARDS, forty-seven percent of retirements in F.Y. 1984 were under the special CIA system. This is the first year since 1974 that more than half of all Agency retirements have been under the Civil Service Retirement System. 25X1
3. CIARDS continues to serve the objective of retiring certain essential employees at ages younger than those normally experienced under the Civil Service Retirement System. Although the average age at retirement has gone up almost two years since 1979, the average Agency employee retiring in F.Y. 1984 under CIARDS was four full years younger than the average CSR retiree. 25X1
4. Changes in the law during 1984 deal primarily with annuity cost-of-living adjustments. There were no changes that will have any bearing on the Agency's exercise of discretion to designate employees for participation in CIARDS. 25X1

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5. The Agency's regulations pertaining to CIARDS were reissued 11 August 1984 to reflect changes brought about by all laws enacted and Executive Orders issued since 8 September 1982, and to include changes of a technical and clarifying nature.

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The only change in the regulations concerning qualifying domestic service was not intended to change policy, but only to reflect more clearly policy already established by precedent decisions.

25X1

CONCLUSION

The CIA Retirement Board continued its strict application of the law and the regulations dealing with service qualifying for CIARDS, and observed Agency policy as established by precedent decisions.

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The Central Intelligence Agency Retirement Act of 1964 For Certain Employees is being administered as a system for a quite limited number of employees, in conformance with the intent of Congress.

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Extensive review revealed no deviations or exceptions from the law, the regulations, or established Agency policy during the fiscal year ending 30 September 1984.

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